

HOUSE BILL REPORT

HB 1042

As Amended by the Senate

Title: An act relating to revising the international application of the uniform child custody jurisdiction and enforcement act to protect families from facing the death penalty in certain foreign jurisdictions on the basis of religious beliefs, political beliefs, or sexual orientation.

Brief Description: Revising the international application of the uniform child custody jurisdiction and enforcement act to protect families from facing the death penalty in certain foreign jurisdictions on the basis of religious beliefs, political beliefs, or sexual orientation.

Sponsors: Representatives Thai, Walen, Ortiz-Self, Lekanoff, Gregerson, Callan, Frame, Santos and Macri.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/13/21, 1/15/21 [DP].

Floor Activity:

Passed House: 1/22/21, 95-3.

Senate Amended.

Passed Senate: 3/30/21, 49-0.

Brief Summary of Bill

- Allows Washington courts to refrain from applying Uniform Child Custody Jurisdiction and Enforcement Act standards in international custody matters if a parent or child are at demonstrable risk of being subject to laws of a foreign country that carry a death sentence for apostasy or homosexuality.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 17 members: Representatives Hansen, Chair; Simmons, Vice Chair; Walsh, Ranking Minority Member; Gilday, Assistant Ranking

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Member; Graham, Assistant Ranking Minority Member; Abbarno, Davis, Entenman, Goodman, Kirby, Klippert, Orwall, Peterson, Thai, Valdez, Walen and Ybarra.

Staff: Ingrid Lewis (786-7289).

Background:

The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), adopted by Washington in 2001, establishes procedures to determine when one state has jurisdiction to enter or modify a child custody order and when it must recognize another state's order. The UCCJEA gives exclusive and continuing jurisdiction over child custody to the courts of the child's home state, defined for the most part as the state where the child has lived with a parent for six consecutive months prior to the commencement of the proceeding. It also provides a uniform procedure to register and enforce child custody orders across state lines. The UCCJEA provides a court with temporary emergency jurisdiction, even if another state has issued a custody order, if a child is present in the state and needs protection due to abuse or abandonment.

Under the UCCJEA, courts must recognize and enforce the custody decrees from a foreign country as if it were a state, provided that the foreign jurisdiction is in substantial conformity with the jurisdictional standards set out by the UCCJEA, and the child custody laws of the country do not violate fundamental principles of human rights.

Summary of Bill:

Washington courts are permitted to refrain from applying the UCCJEA standards in international custody matters if the foreign country holds that apostasy or homosexuality are punishable by death, and a parent or child may be at demonstrable risk of being subject to such laws. Apostasy is defined as "the abandonment or renunciation of a religious or political belief."

Provisions apply to child custody proceedings or proceedings to enforce a custody determination pending or commenced after the effective date of the act.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment allows Washington courts to refrain from applying UCCJEA standards in international custody matters if a parent or child are at demonstrable risk of being subject to laws of a foreign country that carry a death sentence for a sincerely held religious belief or practice in addition to apostasy or homosexuality.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This bill is about protecting children, families, and lives. International child custody cases are inherently complicated. While domestic custody cases can be contentious, they do not usually involve the death penalty. It is the state's ethical obligation to ensure that Washington families are not sent back to a country where certain religious or political views are subject to imprisonment or the possibility of death. This requires closing dangerous loopholes in the law.

Courts are currently required to treat foreign countries as if they were states and uphold a foreign court's orders. There is one exception for instances when a foreign country's child custody laws violate fundamental principles of human rights. At the appellate level, this law has sent battered women back to foreign countries. This neglects the reality that some foreign jurisdictions place the life of a parent at risk due to discriminatory laws which limit a parent's right to protect themselves from dangerous situations or limit rights of due process under the law.

This bill is not an attack on comity or the respect Washington has for decisions of foreign tribunals. The language is narrowly drawn to address the dangers that families face when internationally and nationally recognized freedoms are attacked, specifically the freedom of religion and protection from discrimination based on sexual orientation. It does not condemn other nations and allows courts to uphold judicial integrity ensuring that international parental abduction and forum shopping are not an option in the courts.

The Hague Convention on the Civil Aspects of International Child Abductions may offer relief when both jurisdictions are signatories, but there are over 70 countries that are not signatories.

(Opposed) None.

Persons Testifying: Representative My-Linh Thai, prime sponsor; Bethany Alhaidari, Saudi American Justice Project; Hassan El-Tayyab, Friends Committee on National Legislation; Scott Volyn, Volyn Law Firm PLLC.

Persons Signed In To Testify But Not Testifying: None.